

15-1504 OVERTON V. UNITED STATES

DECISION BELOW: 116 A.3d 894

LOWER COURT CASE NUMBER: 12-CO-1539

QUESTION PRESENTED:

Under *Brady v. Maryland*, 373 U.S. 83 (1963), evidence favorable to the defense is material, and constitutional error results from its suppression by the government, if "there is any reasonable likelihood it could have affected the judgment of the jury." *Wearry v. Cain*, 136 S. Ct. 1002, 1006 (2016) (per curiam) (quotations omitted).

In this case, the District of Columbia Court of Appeals required petitioner to show a reasonable probability that the suppressed evidence—including identifications of two potential alternative perpetrators, information suggesting that the crime was committed by a much smaller group than posited by the government, information calling into question the thoroughness and accuracy of the government's investigation, and evidence impeaching a purported eyewitness who testified against petitioner—"would have led the jury to doubt virtually everything" about the government's case. Applying that standard, the court rejected petitioner's *Brady* claim, even though the jury deadlocked repeatedly before finding him guilty and the prosecution itself acknowledged that the case "easily could have gone the other way."

The question presented is whether, consistent with this Court's *Brady* jurisprudence, a court may require a defendant to demonstrate that suppressed evidence "would have led the jury to doubt virtually everything" about the government's case in order to establish that the evidence is material.

GRANTED LIMITED TO THE FOLLOWING QUESTION: "WHETHER THE PETITIONERS' CONVICTIONS MUST BE SET ASIDE UNDER *BRADY* V. *MARYLAND*, 373 U.S. 83 (1963)."

CONSOLIDATED WITH 15-1503 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 12/14/2016